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FILED

JANUARY 30, 2008

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

United States District Court for the
Northern District of Illinois
Eastern Division

08 C 673

Marina Novitskaya
Plaintiff,

v.

Michael Chertoff, Secretary of
the Department of Homeland Security;
Emilio T. Gonzalez, Director of the
U.S. Citizenship and Immigration Services;
Robert Blackwood, Chicago District Director,
U.S. Citizenship and Immigration Services;
Robert S. Mueller, III,
Director of Federal Bureau of Investigation
Defendants.

Case No.

Civil Action

JUDGE DER-YEGHIAYAN
MAGISTRATE JUDGE DENLOW

PETITION FOR HEARING ON
NATURALIZATION APPLICATION
UNDER 8 U.S.C. § 1447(b)

Complaint

COMES NOW Marina Novitskaya, Plaintiff, in the above styled and numbered cause, and for cause of action would show unto the Court the following:

1. This action is brought for hearing to decide Plaintiff's naturalization application due to Defendants' failure to adjudicate the application within 120 days after the first examination in violation of the Immigration and Nationality Act ("INA") §336(b) and 8 U.S.C. §1447(b).

Parties

2. Plaintiff, Marina Novitskaya, is a lawful permanent resident of the United States. Plaintiff filed the N-400 application on February 20, 2007. Plaintiff applied for naturalization to the United States and was examined for her naturalization application on August 30, 2007. Defendants have failed to make a decision on the application within 120 days after the examination.

3. Defendant Michael Chertoff is the Secretary of the Department of Homeland Security (DHS), and this action is brought against him in his official capacity. He is generally charged with enforcement of the Immigration and Nationality Act, and is further authorized to delegate such powers and authority to subordinate employees of the DHS. 8 U.S.C. §1103(a); 8 C.F.R. §2.1.

4. Defendant, Emilio T. Gonzalez, is the Director of the United States Citizenship and Immigration Service (USCIS), an agency within the DHS to whom the Secretary's authority has in part been delegated and is subject to the Secretary's supervision. Defendant Director is

generally charged with the overall administration of benefits and immigration services. 8 C.F.R. §100.2(a).

5. Defendant, Robert Blackwood, Chicago District Director, Field Office Director is an official of the USCIS generally charged with supervisory authority over all operations of the USCIS within the District. 8 C.F.R. §100.2(d)(2)(ii). As will be shown, Defendant Director is the official with whom Plaintiff's naturalization application remains pending.

6. Defendant, Robert S. Mueller, III is Director of the Federal Bureau of Investigations (FBI), the law enforcement agency that conducts security clearances for other U.S. government agencies, such as the Department of Homeland Security. As will be shown, Defendant has failed to complete the security clearances on Plaintiff's case.

Jurisdiction and Venue

7. Jurisdiction over of this action is proper under INA §336(b) and 8 U.S.C. §1447(b). Relief is requested pursuant to said statutes.

8. Venue is properly laid in this Court, pursuant to 8 U.S.C. §1447(b), in that Plaintiff may request a hearing on the matter in the District where Plaintiff resides.

Cause of Action

9. Plaintiff is a lawful permanent resident (A# 071-264-896) of the United States. Plaintiff filed an N-400 Application for Naturalization with the U.S. Citizenship and Immigration Services and was examined by the Chicago District Office on August 30, 2007.

10. Plaintiff's application for naturalization has now remained unadjudicated for more than a year from the date of the examination.

11. Defendant's have sufficient information to determine Plaintiff's eligibility pursuant to applicable requirements.

12. Defendants, in violation of 8 U.S.C. §1446, have failed to make a determination on Plaintiff's naturalization application within the 120 day period after the date of the examination.

Prayer

13. WHEREFORE, in view of the arguments and authority noted herein, Plaintiff respectfully prays that the Defendants be cited to appear herein and that, upon due consideration, the Court enter an order adjudicating the naturalization application. In the alternative, the Court may remand requiring Defendants to immediately adjudicate Plaintiff's naturalization application. In addition, Plaintiff requests an award of reasonable attorney's fees under the Equal Access to Justice Act, and such other relief at law and in equity as justice may require.

Respectfully Submitted,

Birg & Meltser

/s/ Gene Meltser
Gene Meltser, Esq.

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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing COMPLAINT has been sent via the Court's electronic filing system or by Registered or Certified Mail to the following parties, this 31st day of January, 2008

1. Office of US Attorney
Northern District of Illinois
5th Floor
219 Dearborn St.
Chicago, IL 60604-1702
2. US Department of Homeland Security
US CIS
Chicago District Office
101 West Congress Parkway
Chicago, IL 60605
3. Office of the General Counsel
US Department of Homeland Security
Washington, D.C. 20258
4. US Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530-0001
5. Federal Bureau of Investigation
601 4th Street NW
Washington, D.C. 20535

Dated this 31st day of January, 2008

/s/ Gene Meltser
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